

ORDINANCE 19-38-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO THE USE OF WHEELED VEHICLES ON PUBLIC AND PRIVATE AREAS OF THE BEACH; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT TO LAND DEVELOPMENT CODE SECTION 11.08.02, AND AMENDING SUBSECTION C(v) ; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Part II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City of Destin has seen an increase in the number of vehicles driving on privately owned beach property; and

WHEREAS, driving on beach is aesthetically displeasing and dangerous for beach strollers as well as damaging to the ecosystem and large-scale prohibition of driving may bring back the beach fauna and flora; and

WHEREAS, Land Development Code Section 11.08.02 bans the use of wheeled vehicles on the beach but is not clear as to whether driving vehicles on private beaches is prohibited; and

WHEREAS, the City Council has deemed it necessary to amend the existing Land Development Code to clearly and unequivocally prohibit the use of all wheeled vehicles on all beaches regardless of who owns the beach; and

WHEREAS, the City Council desires to balance the comfort and convenience of tourists and local beachgoers with the need to protect the health, safety and welfare of those on the beach as well as prevent negative environmental impacts stemming from the use of wheeled vehicles on the beach; and

WHEREAS, the City of Destin promotes tourism, including appreciation and enjoyment of the City's abundant preserved natural areas, pristine beaches, and walking and bicycling paths that make the City of Destin unique among Florida's coastal municipalities; and

WHEREAS, many coastal jurisdictions in the State of Florida, and across the nation, have standards in place to minimize the negative impacts caused by vehicular activity on both public and private beaches; and

WHEREAS, pristine beaches, clear of vehicle tracks, allow the recovery of all coastal organisms that benefit from the lack of disturbance and compacting of the substrate by the heavy vehicles; and

WHEREAS, it is widely recognized that beach driving can cause serious ecological impacts by potentially destroying nesting areas for sea turtles and birds; and

WHEREAS, in *Proposed Rule - Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Northwest Atlantic Ocean Distinct Population Segment of the Loggerhead Sea Turtle* (Federal Register, March 25, 2013) is it stated that, "Beach driving has been found to reduce the quality of loggerhead nesting habitat in several ways. In the southeastern United States, vehicle ruts on the beach have been found to prevent or impede hatchlings from reaching the ocean following emergence from the nest (Hosier et al. 1981, p. 160; Cox et al. 1994, p. 27; Hughes and Caine 1994, p. 237). Sand compaction by vehicles has been found to hinder nest construction and hatchling emergence from nests (Mann 1977, p. 96). Vehicle lights and vehicle movement on the beach after dark results in reduced habitat suitability, which can deter females from nesting and disorient hatchlings. If driving occurs at night, sea turtles could be run over and injured. Additionally, vehicle traffic on nesting beaches contributes to erosion, especially during high tides or on narrow beaches where driving is concentrated on the high beach and foredune."; and

WHEREAS, shore erosion can be caused by careless beach driving; and

WHEREAS, beach driving can pose a serious safety hazard to beach goers and there have been injuries and deaths to beach goers caused by vehicles in coastal areas where beach driving is allowed; and

WHEREAS, the City Council does not wish to interfere with the enjoyment and comfort of beach goers and this Ordinance will not prohibit or hinder the level of beach access currently enjoyed by both locals and tourists; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language

proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Land Development Code that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 11.08.02.

Section 11.08.02 of the Land Development Code is hereby amended as follows:

a. **Beach Vendor Permit:** If a vendor possesses a Business Tax Receipt that permits the vendor to operate a business that rents beach chairs and beach umbrellas for profit within the Destin City limits, or which permits the vendor to provide beach chairs and beach umbrellas as an amenity provided to the guests of any condominium or hotel, and the vendor can provide written proof that it has a legal right to provide beach chairs and beach umbrellas on a beach within the Destin City limits, then the vendor shall be entitled to one (1) permit for the entire business, and any affiliated businesses. If a vendor receives such a permit, then the vendor is allowed no more than three (3) decals for the purposes of distributing and collecting beach chairs and umbrellas from the beach. Decals shall be affixed to either an ATV, or to a truck equal to, or smaller than a half ton pickup truck. Beach Vendors shall have no more than three (3) approved vehicles at three (3) different beach locations at any time. Unless enforcement of City Ordinances is suspended by the City Manager due to a pending natural disaster, then a Beach Vendor Permit shall only permit the operation of a wheeled vehicle between the hours of 5:01 p.m., CST to 9:00 a.m. CST.

SECTION 4. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS 16TH DAY OF DECEMBER 2019

BY: 
Gary Jarvis, Mayor

ATTEST:


Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only.

Kimberly Kopp, City Land Use Attorney



First Reading: December 2, 2019
Second Reading: December 16, 2019